

REMARKS

I. Claim Amendments

Claim 1 and 14 have been amended to simplify the language and Claims 15-20 have been added to further define the invention, particularly in view of the cited prior art.

All the Claims, including the amendments, are shown in the previous section. No new matter has been added. Support for the amendments can be found through the Specification, which claims the composition and method for use with all mammals.

Upon entry of this amendment, Claims 1-20 will be pending in the Application.

II. Brief Remarks Regarding Prior Rejections

The Examiner's previous rejections under 35 U.S.C. §103(a) are improper and should be withdrawn. Specifically, Shields teaches away from the present invention and therefore cannot be the basis for an obviousness rejection. Shields teaches that glutamine is useful in the diet of specific dog breeds and not in the diet of other dog breeds. Shields teaches that glutamine should be included in the diet of hound dogs, herding dogs, and sporting dogs and that glutamine should not be used in the diet of non-sporting dogs, working dogs, terrier dogs, and toy dogs (this is clear from the claims and the examples). Given this clear distinction between breeds in the same species, it is unclear how the teachings of Shields, in combination with the other cited references, could make it obvious to extrapolate the use of glutamine to all mammals, e.g., cats and humans. Since Shields teaches that glutamine is not needed in certain breeds of dogs but is needed in other breeds of dogs, it cannot be obvious that glutamine is needed in cats, humans, horses, cattle, etc. Indeed, if glutamine is not needed in certain dogs, it cannot be obvious that it is needed in other dog breeds not mentioned in Shields and certainly not obvious that glutamine is needed or useful in other mammals. The difference between the present invention and the prior art as disclosed in the cited references is so dramatic that the cited references could not be combined to achieve the present invention and, even if they could be combined to achieve the present invention, provide no teaching that would motivate a skilled artisan to combine the references to achieve the present invention. Even the improper use of hindsight cannot make the present invention obvious over Shields, Wadsworth, and Klimberg.

Chandler teaches a catch-all list of dietary ingredients that "may" or "possibly" (see Summary on page 533) be beneficial "in some cases." Chandler does not teach or make obvious the present invention, a combination of ingredients in specific amounts that are beneficial to the


GI tract. In fact, Chandler, like Shields, teaches away from the present invention. On page 529, Column 2, first full paragraph, Chandler teaches the glutamine is more effective when added to the diet as part of whole intact proteins and teaches away from using glutamine from hydrolyzed proteins and amino acid supplements. Further, there is certainly nothing in Chandler that teaches the ingredient amounts as claimed in the present application. While it may be obvious to try to determine these amounts, determining the specified amounts would require a skilled artisan manipulate four variables to determine the useful amounts. In this instance, only the improper use of hindsight could make the present invention obvious over Chandler since the present invention claims the four ingredients in newly discovered amounts that are required to manage diarrhea.

III. Conclusion

In summary, the Claims have been amended and the reasons why the Examiner's previous rejections under 35 U.S.C. §103(a) are improper have been stated. In view of the foregoing Remarks, it is submitted that the Claims are in condition for allowance. Reconsideration of the Application as amended is requested and allowance of the Claims at an early date is solicited.

If the Examiner believes that personal communication will expedite prosecution of this Application, the Examiner is invited to call the undersigned at the number listed below.

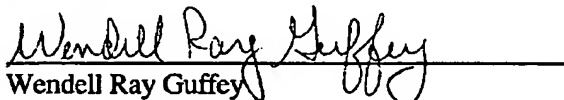
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted by facsimile to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 15, 2005 at facsimile number 703-872-9306.


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